

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. Examiner Interview, Claim Status, and Amendments

At the outset, Applicants thank Examiner Jacyna for his time and consideration during the personal interview on February 26, 2009 with the Applicants and their representative. In the interview, Applicants proposed amendments to claim 13 to clarify the invention and define over the cited prior art. Applicants also proposed new claims 32 and 33, which are alternatives to claim 13 that also define over the cited references. It was agreed that amending the claims to specify that the first and second ends of the connecting member do not extend in the same direction and so that at least one of said ends is not in the claimed vertical plane define over the prior art of record.

Please note Applicants have amended independent claim 13 in the manner agreed in the interview. Applicants have also added new claims 32 and 33 that also contain the features that distinguish over the prior art of record.

Claims 13-26 were pending in this application when last examined and stand rejected.

Support for amended claim 13 and new claims 32 and 33 can be found in the disclosure, for example, at page 4,

lines 5-39, page 9, line 23 to page 10, line 12 and Figs. 1-4 and the description of such on pages 11-13, see page 13, lines 10-12, and original claim 1. Claim 13 has also been amended to specify that the actuating member emerges from a central opening on top of the reservoir and has a movable push-button which is manually depressible in a vertical actuating direction that is vertically aligned with said actuating member along a central axis of the reservoir. Support can be found in the disclosure, for example, at page 7, line 31 to page 8, line 6, and Figures 1, 3, and 4.

Claims 15, 17, 20-22 and 26 have been amended to be consistent with the changes to independent claim 13.

Claims 14 and 27-31 have been cancelled without prejudice or disclaimer thereto. Applicants reserve the right to file a continuation or divisional application on any cancelled subject matter.

Claims 13-26, 32, and 33 are pending upon entry of this amendment.

No new matter has been added by the above claim amendments.

II. Prior Art Rejections

Claims 13-18, 21-25, and 27-31 were rejected under 35 U.S.C. § 102(b) as anticipated by GERMAN 3,836,290 for the reasons in item 2 on page 2 of the Official Action.

Claims 13-20 and 26-31 were rejected under 35 U.S.C. § 102(b) as anticipated by GORA (US 2,566,487) for the reasons in item 3 on page 2 of the Official Action.

Claims 13-18 and 21-31 were rejected under 35 U.S.C. § 103(a) as obvious over PONTON (US 6,089,410) and GERMAN 3,836,290 for the reasons in item 5 on page 3 of the Action.

The prior art rejections should fall, because the cited prior art references fail to disclose or suggest each and every feature of the amended claims and the new claims.

Again, during the interview, it was agreed that amending the claims to specify that the first and second ends of the connecting member do not extend in the same direction and so that at least one of said ends is not in the claimed vertical plane define over the prior art of record. Please note the Applicants have amended independent claim 13 in the manner agreed in the interview. Also, Applicants have added new independent claims 32 and 33 that also contain the features that distinguish over the prior art of record.

Specifically, claim 13, as amended, recites: "the first end of the connecting member connected to the actuating member extends in a direction different from a direction in which the second end of the connecting member connected to the outlet member extends, and at least one of the first and second ends does not extend in the same direction of a vertical flat plane containing a geometric line directly

connecting said actuating member (7, 9, 19, 107, 109, 117) and said outlet member (24, 29)." This language makes it clear that the first end of the connecting member extends in a direction different from the direction that the second end of the connecting member connected to the outlet member extends.

It also makes it clear that at least one of the first and second ends does not extend in the same direction of a vertical flat plane containing a geometric line directly connecting said actuating member.

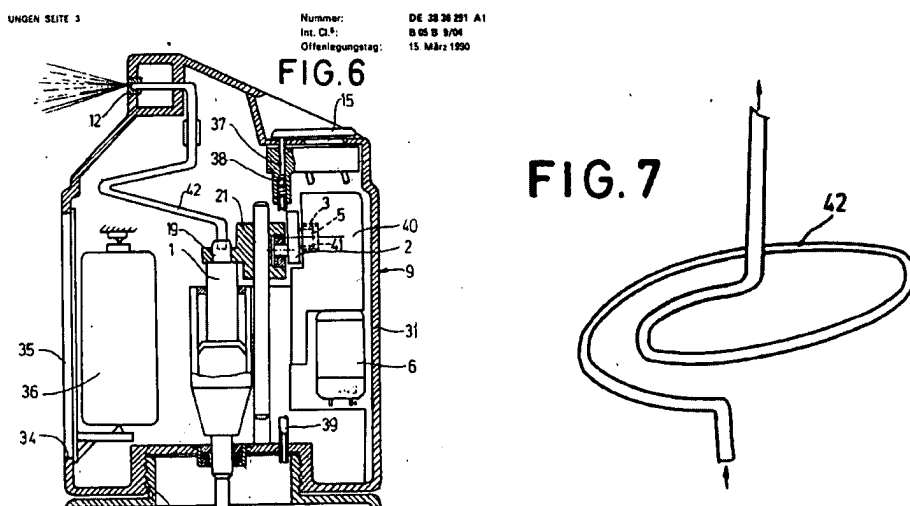
Support for this arrangement can be found in the disclosure at page 4, lines 31-39, page 9, line 23 to page 10, line 12 and Figs. 1-4 and the description of such on pages 11-13, see page 13, lines 10-12. See, also, Figures 2 and 3 which illustrate this concept. See also the depiction in attachments 1 and 2, which further illustrate this concept. Thus, the amended claim language clearly requires that the end portions of the connecting member diverge from each other such that they do not extend in the same direction and are not in the same vertical plane. New independent claims 32 and 33 also require the same or similar feature.

As discussed and agreed to in the interview, the above-noted features of claim 13, 32, and 33 distinguish over the cited prior art references of over GERMAN 3,836,290, GORA (US 2,566,487), and PONTON (US 6,089,410), and any combination thereof.

The devices in the cited prior art references fail to disclose or suggest the above-noted features of independent claim 13 and new claims 32 and 33.

GERMAN 3836290

To start, it is noted that GERMAN 3836290 cited by the Official Action has a "sister" patent application GERMAN 3836291 that should be taken into account. Accordingly, Applicants have cited GERMAN 3836291 in a concurrently filed Information Disclosure Statement (IDS). This "sister" patent application GERMAN 3836291 comprises an additional figure 7 providing with a representation of the connecting tube 42 in shape of a "coil" as shown below.



It is believed that amended claim 13 and new claims 32 and 33 are novel and patentable over both German documents for the following reasons.

First, neither GERMAN 3836290, nor the sister application GERMAN 3836291, describe the above-noted feature of amended claim 13 and new claims 32 and 33. In particular, the German documents do not disclose or suggest an apparatus that meets the limitation of "the first end of the connecting member connected to the actuating member extends in a direction different from a direction in which the second end of the connecting member connected to the outlet member extends, so that at least one of the first and second ends does not extend in the same direction of the vertical plane." This is evident from the figures in the German documents.

As can be seen in Figure 6, both connecting ends of the flexible tube 14 are in the same vertical plane connecting said actuating member and said outlet. Further, in the coiled connecting tube of Figure 7 of the sister case GERMAN 3836291, both ends extend in the same direction.

This arrangement in the German documents stands in contrast to the above-noted features of the devices of amended claim 13 and new claims 32 and 33, which require that the first end of the connecting member connected to the actuating member extends in a direction different from a direction in which the second end of the connecting member connected to the outlet member extends, so

that at least one of the first and second ends do not extend in the same direction of the vertical plane.

Furthermore, amended claim 13 now requires "an actuating member (7, 9, 19, 107, 109, 117) emerging from a centrally located opening on top of said reservoir, said actuating member comprising a movable push-button (19) which is manually depressible in a vertical actuating direction (Z) in order to eject a quantity of said liquid or semi-liquid product from said reservoir through a passage (45) in said actuating member, said vertical actuating direction (Z) being vertically aligned with said actuating member along a central axis of the reservoir." New claims 32 and 33 similarly require "a manually depressible push-button disposed on a top of the pump opposite the dip-tube." It is believed that these features further distinguish over the German documents.

These additional features with respect to movable push-button and vertical actuating direction (Z) being vertically aligned with said actuating member along a central axis of the reservoir cannot be found in the German documents. Instead, in the German documents, the actuating direction of the push button 15 acting on an electrical switch is not aligned with the central axis of the reservoir 8. On the contrary, the actuating axis is laterally offset because of the arrangement of the electrical motor, the batteries and the mechanism with

an eccentric for acting in the German documents.

It is further noted that in the German documents, the "passage in said actuating member" is in fact a passage in the rod 1 on which the push button 15 has no direct mechanical action. This stands in contrast to the claimed device of the instant application in which the movable-push button is part of the actuating member (claim 13), which is located along a central axis of the reservoir.

Also, the role of the tube 42 in the German documents, which can be made of metal or plastics, is not to prevent transmission of efforts, but to permit "high frequency alternate short travels imparted by element 19 on the assembly 1-19 in order to obtain sufficient quantity and pressure for the coming out product.

Lastly, it should also be noted that, in the German documents, the two end portions of the tube 42, which are connected by the coil portion, are both "vertically" oriented in the same direction, i.e., without any other possibility, because the upper end portion is guided in a vertical guide or sheath (not referenced).

This stands in contrast to the claimed invention in which the outlet member may be placed at

any point on the device, that is to say in particular above or below or at the same level as the pump rod in the vertical direction, and at any location around the peripheral direction of the reservoir.

Thus, the arrangement of the device in the German documents does not permit to place the components with the same freedom and possibilities of the claimed device, i.e., anywhere at the periphery of the device (anywhere around and anywhere vertically) as in the claimed device.

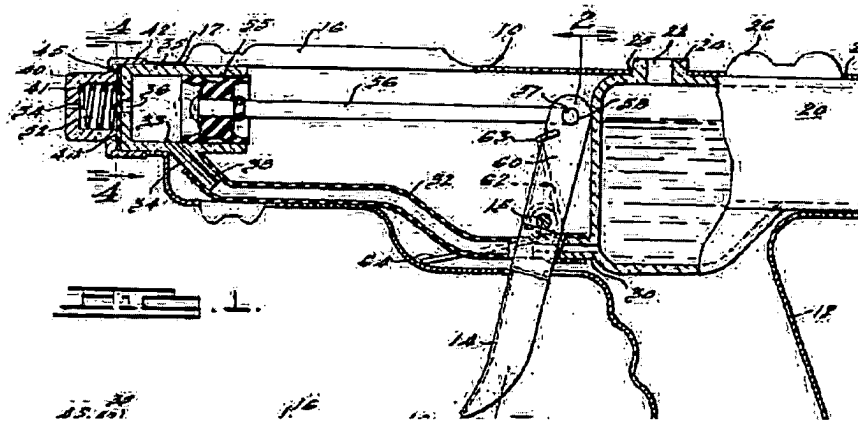
For these reasons, it is respectfully submitted that neither German document discloses or suggests each and every element of amended claim 13 and new claims 32 and 33. Therefore, claim 13 and new claims 32 and 33, and all claims dependent thereon, are believed to be novel and patentable over the cited German documents.

In view of the above, the anticipation rejection over GERMAN 3836290 is untenable and should be withdrawn.

GORA (US 2,566,487)

With respect to the anticipation rejection over GORA (US 2,566,487), it is believed that the device of claims 13, 32, and 33 is novel and patentable for the following reasons.

GORA (US 2,566,487) does not disclose or suggest the above-noted features of amended claim 13 and new claims 32 and 33. This is evident from the illustration shown below of the device in GORA (US 2,566,487). As can be seen, the device in reference has a non-centered and aligned actuating force on the trigger 14. See also, the orientation of the flexible tube 32, which is in a single vertical plane and which is fixed, i.e., not moving when the trigger is depressed, etc.



Thus, the device and the tube in GORA (US 2,566,487) cannot meet the feature of the first end of the connecting member connected to the actuating member extends in a direction different from a direction in which the second end of the connecting member connected to the outlet member extends, and at least one of the first and second ends does not extend in the same direction of a vertical flat plane containing a geometric line directly connecting said actuating

member (7, 9, 19, 107, 109, 117) and said outlet member (24, 29)" of claim 13.

The device in GORA (US 2,566,487) also does not meet the feature of "an actuating member (7, 9, 19, 107, 109, 117) emerging from a centrally located opening on top of said reservoir, said actuating member comprising a movable push-button (19) which is manually depressible in a vertical actuating direction (Z) in order to eject a quantity of said liquid or semi-liquid product from said reservoir through a passage (45) in said actuating member, said vertical actuating direction (Z) being vertically aligned with said actuating member along a central axis of the reservoir" of amended claim 13.

Based on such, it is clear that GORA (US 2,566,487) fails to disclose each and every element of amended claim 13 and new claims 32 and 33. Thus, the patent cannot anticipate these claims. Therefore, the anticipation rejection over GORA (US 2,566,487) is untenable and should be withdrawn.

PONTON (US 6,089,410) in view of GERMAN 3,836,290

With respect to the obviousness rejection of claims 13-18 and 21-31 over PONTON (US 6,089,410) and GERMAN 3,836,290, this rejection should fall, because the combined references fail to disclose or suggest each and every

element of the claims as required for a *prima facie* obviousness.

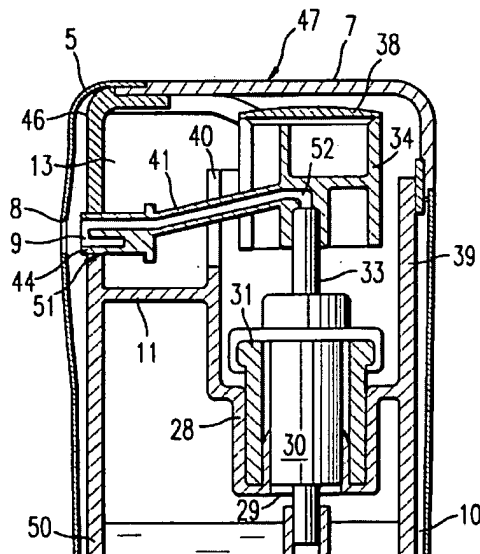
The deficiencies of GERMAN 3,836,290 are discussed above and reiterated herein. PONTON (US 6,089,410) fails to remedy these deficiencies.

With respect to PONTON, a lot of comments and arguments have already been presented in previous responses, including the fact that the invention is new in view of PONTON, because of the arrangement of the flexible tube in PONTON which is always "in the same vertical plane". This is evident from the illustration below of the device in PONTON.

Jul. 18, 2000

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6,089,410



As can be seen, in PONTON, there is a straight line that runs the entirety of the flexible connecting means 41 from the actuator 52 to the outlet 9 as evident from Fig. 3A of PONTON.

Again, this stands in contrast to the presently claimed device in which "the first end of the connecting member connected to the actuating member extends in a direction different from a direction in which the second end of the connecting member connected to the outlet member extends, and at least one of the first and second ends does not extend in the same direction of a vertical flat plane containing a geometric line directly connecting said actuating member (7, 9, 19, 107, 109, 117) and said outlet member (24, 29)."

A further difference between the claimed device and PONTON is that the claimed device requires an actuating member emerging from a centrally located opening on top of said reservoir, said actuating member comprising a movable push-button (19) which is manually depressible in a vertical actuating direction (Z) in order to eject a quantity of said liquid or semi-liquid product from said reservoir through a passage (45) in said actuating member, said vertical actuating direction (Z) being vertically aligned with said actuating member along a central axis of the reservoir. This feature cannot be found in PONTON, especially since the actuating direction of the push button 34 in PONTON is laterally offset.

For these reasons, it is clear that PONTON fails to disclose or suggest each and every feature of the claims.

Furthermore, any attempt of combining the teachings of the PONTON with those of the German document to arrive at the claimed device would involve improper hindsight reconstruction (a posteriori analysis), because there is no hint or suggestion of the above-noted claimed features in these references. Further, even if the teachings of the PONTON were combined with those of the German document, it would not "reach" the claimed invention.

It is wrong to analyze the coil tube 42 of the German Document as an "diverging structure" equivalent to the flexible tube 41 of PONTON, because the function of the tube 42 is to permit high frequency travels, but not to permit the "geographic arrangement" of the various components according to PONTON and to the present invention without transmission of substantial force.

Even if one of ordinary skill in the art would try to replace the tube 41 of PONTON by the coil 42, it would not arrive at the device of claim 13 with the centrally arranged actuating member and reservoir which permits to have the upper button in the center of the

device. This central arrangement is an esthetic advantage. Moreover, it facilitates manual depression and actuation when the user holds the reservoir in his actuating hand.

Indeed, the "bulky" coil structure and its position in the German Document would teach away from this feature of the claimed device, as it would provide an incentive for the skilled artisan to keep, to increase, the lateral offset of the button in PONTON. Thus, it is believed that combined references fail to meet each feature of the claims, and in fact, they teach away from the claimed device.

Furthermore, in PONTON the tube is a single molded piece with 52. Thus, the coil from the German Document should be oriented at 90° when compared with the German Document, i.e., having the two parallel straight portions arranged "horizontally in PONTON, thus providing only a "poor" flexibility in the vertical orientation when the push button 38 is depressed. Again, this stands in contrast to the good flexibility of the tube of the claimed device.

In view of the above, Applicants believe that claim 13 (and all claims dependent thereon) and new claims 32 and 33, are novel and patentable over the combination of PONTON and the German Document. Thus, the 103(a) anticipation

rejection over PONTON and the German Document is untenable and should be withdrawn.

In addition, it should be noted that the cited prior art references also do not disclose or suggest one or more features of the dependent claims.

For instance, they do disclose or suggest the features of claim 15, in which said connector member is adapted to form an angle with the vertical plane. Nor do they disclose such wherein said angle is greater than 30° of claim 16 or between 30° and 90° of claim 25. Nor do they disclose or suggest the feature, wherein at least one (23) of said ends of the connecting member is oriented in such a way as to diverge from the opposite end (30) of said connecting member of claim 18. Also, the cited prior art references do not disclose or suggest the feature of claim 17, in which said connecting member, between said first and second ends, extends essentially on just one side with respect to ~~a~~ the vertical plane.

For these additional reasons, it is believed that the claimed device distinguishes over the cited prior art references.

Thus, the above-noted prior art rejections should be withdrawn.

III. CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested. If the Examiner has any comments or proposals for expedited prosecution, please contact the undersigned attorney at the telephone number below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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APPENDIX:

The Appendix includes the following item(s):

- Attachments 1 and 2 are further depictions of the invention. They are discussed in the arguments herein. They are not replacement drawings. Nor are they to be added as new drawings.